

1905-002 Chancery Causes: William P. Zion, gdn. vs Juanita Fisher &
Lee Co.

CA-Estate Dispute
T-Property

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County:

=====§=====

Humbly complaining,your orator,W.P.Zion,sheweth unto the court that at the term of the County Court for said county he was duly and legally apointed guardian for Juannita and Holst Fisher,the two infant,and only children and heirs of Mary Fiher nee Zion,deceased,and then and there duly and legally qualified as such guardian and executed the bond required by law as such guardian;that said children are aged re-spectively seven and five years old and that they are not residents of this state,but that they own in this county,jointly,an undivided sixth interest in four small tracts of land in said countyand which have heretofore been assigned in the partitions of the lands of A.D.Zion to the heirs of Harvey Zion,deceased,of whom the said Mary Fisher nee Zion,was one of six heirs;that said lands are situated and described as follows,towit:Tract No.(1),situated near the town of Pennington Gap,on the home place of the saidA.D.Zion,and containing eight acres,and bounded as folows,Beginning at (J)as shown on the plat of said partition corner to Lot No.3,--a stake in a lane and on Russell's line,thence with same and a line fence N.73½°E.42 poles to a stake,N.6½°W.8½ poles to a stake at (A),S.74½°W.46 poles&8 links to a stake in lane at(I) and opposite South gate post,thence with lane S.16°E.28½ poles to beginning; tract No.(2)situated in the Wolfe Harbor of Stone Mountain and contains 9 acres,and is bounded as follows, Beginning at (A,on plat)two dog-woods and a chest nut-oak,on top of Wolf Harbor Ridge(corner to original lot in partition of the lands of Phoebe Parsons),thence with top of said ridge as it meanders,S9°W.27&66/100 poles to(I) a stake,thence leaving top of said ridge N.72°E.78½ poles to(2) a stake on top of ridge,thence with top as it meanders N.41& 3/4°W.2½ poles to (R) a stake on top of a high point,N.63&3/4°W.31&58/100 poles to (S) a stake,S.73°.5'W.41.56 poles to the beginning;tract No.3 being the nine acre tract conveyed by Mathew Zion to the heirs of A.D. Zion,by deed on the 17 day of Oct.1888,which said deed is recorded in Deed Book No.25,P.167, the interest,however, of said infants in tis tract is only one-sixth

of one-eleventh; tract No. (4) is situated on the north side of Stone Mountain, and is known as Lot No. I, in the partition of A.D. Zion's Stone Mt. land, and bounded as follows, Beginning at (A) a stake and chestnut sprouts very near the top of a hill or spur of Mt., and on North line of original tract, now being the Wm. Smith line, also a corner to lot No. 2, thence with line of same, S. 15° E. 125 poles to (B) a stake on top of Stone Mt., and with top of same as it meanders, N. 66° E. 26 poles to a stake in the Low Gap, and on East line of original lot, and with the same N. 15° W. 127 poles to (D) a stake on Smith's line, and with the same S. 61° W. 26 poles to the beginning; they also own an undivided one sixty sixth interest in the dower of Ann Zion, widow of A.D. Zion, at her death: that these are all the lands that said infants own in said county and state, and that they own no other estate, real or personal, in said state or county; that your orator avers and charges that the interests of said infants will be promoted by sale of said real estate and the proceeds thereof invested in other real estate or put out at interest, until they arrive at the age of twenty one years, because the said lands are in small tracts and detached from each other, and most of it being wild mountain land, and the rents therefrom will not pay the taxes on said lands,

Your orator now will show the court that J.W. Fisher is the only heir of said infants, should they die before attaining their majority. Inasmuch therefore, as your orator is remediless save in a court of equity, he prays that the said Juannita Fisher, Holst Fisher and J.W. Fisher may be made parties defendants to this bill and be required to answer the same, the adult in his own proper person, and said infants by guardian ad litem, but they need not do so under oaths, the oaths being waived; that proper process issue; that a proper guardian ad litem be appointed for said infants who shall be required to answer this bill for them; that all proper orders and decrees be entered; that said interests of said children and infants in said lands be ordered to be sold and the proceeds thereof be invested under direction of the court; and that all such other, further and general relief be granted your orator as in the premises may seem just and proper, and your orator will ever pray, etc.

J. B. Noel p. g.

Virginia, Lee County, To-wit:

I, J. F. Skaggs, a justice of the peace for the county and state aforesaid do certify that J. C. Noel, attorney for W. P. Zion, made oath before me in my county aforesaid that he believes that all the allegations in the above bill are true. Given under my hand this 18 day of June 1902.

J.P.

W. P. Zion, Guardian.
vs J. Bill & Chancery
J. W. Fisher et al

1902 2nd Feb'y rules Bill
filed & O. P. & Cont'd
" 1st March rules
held the last Mon-
day in Feb'y O. P.
Complete & Cause set
for hearing.

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee
County,Virginia:

Answer of Juanita Fisher and Holst Fisher by H.O.Ballou their
guardian ad litem,to a bill of complaint exhibited against
themselves and others by Wm P. Ginn, Guardian etc.
in the Circuit Court of Lee County.

These respondents,saving all just exceptions,&.,for answer
to said bill,say that being infants,they submit their right
involved in the same to the protection of the Court.

And having answered,they pray to be dismissed,&.

H.O. Ballou -
Guardian, ad litem.

Sworn to before me this July 8th 1902
A.B. Munsey Clerk

Wm P. (Jr) Guardian etc.
VS.

Junita Fisher, et al.

Filed in open court and
by leave thereof July
the 7th 1902

A B Munsey Clerk

W. P. Zion-Guardian etc.

Juanita Fisher et-als.

This cause came on this day to be finally heard upon the papers formerly read in the cause, and it appearing to the Court that there is nothing further to be done ^{it is adjudged ordered and decreed that} in said cause the same be hereby stricken from the docket.

W.P. Ziegler, Guardian etc.
as { Decree
In Chancery

Juanita Fischer & Co.
Final Decree

Entered in C.B.

No. 8. Page 114

Tender this
decree. This

Dec 19. 1905.

Hawthorn

Judge.

W. P. Zion, Guardian Plff,
vs
Juanita Fisher et al Defs. } on Chancery

This Cause came on this day
to be finally heard upon
the papers formerly read in
this Cause, and the report
of W. P. Zion, ^{Special} Commissioner,
and was argued by Counsel
in consideration of which
it is adjudged, ordered
and decreed that the sales
made by said W. P. Zion,
Commissioner, be confirmed
as set forth in said report
to N. G. Zion, A. N. Zion, M.
Zion, and Hannu Legg,
And it is further adjudged
ordered and decreed, that J. C.
Hael, who is hereby appointed
a Special Commissioner
for the purpose, will make
execute and deliver deeds
for said several tracts of land
sold by said Commissioner
Zion, and report his action
to this Court;
It further appearing

that said W. P. Zion ^{Marshall} has
in his hands, funds
belonging to the said Juvenile
Fishers and Nestor-Fishers,
amounting to the \$37.76
each, and it appearing that
said W. P. Zion does not wish
longer to remain guardian
of said infants, it is adjudged
ordered and decreed that
J. B. Noel is appointed receiver
of said fund, and the
said W. P. Zion is hereby
directed to pay to the said
J. B. Noel receiver, the said
fund, when the said J. B.
Noel shall have executed bond
with the clerk of this court
in the penalty of one hundred
and fifty dollars, for the
faithful performance
of the duties of said receiver.
And this cause is continued

W. P. Zim-Gardner
os { Deere

Juanita Fisher et al

Em. C. B. No. 7,
page 456.

Enter this
decre. This May
16, 1904
H. C. W. Stuenkel
Judge

VIRGINIA,

At a Circuit Court begun and held for Lee County, at the Court house thereof, on Monday, the 16th day of May 1904.

W. P. Zion, Guardian

Plff.

vs. In Chancery

Juanita Fisher et al

Defts.

This cause came on this day to be heard upon the papers formerly read in this cause, and the report of W. P. Zion, special commissioner, and was argued by counsel.

In consideration of which it is adjudged, ordered and decreed that the sales made by said W. P. Zion, commissioner, be confirmed as set forth in said report to A. L. Zion, A. H. Zion, L. M. Zion, and Nannie Legg.

And it is further adjudged, ordered and decreed that J. C. Noel, who is hereby appointed a special commissioner for the purpose, will make execute and deliver deeds for said several tracts of land sold by said commissioner, Zion, and report his action to this Court.

It further appearing that said W. P. Zion, Guard., has in his hands, funds belonging to the said Juanita Fisher and Hutst Fisher amounting to the \$37.96 each, and it appearing that said W. P. Zion does not ^{wish} longer to remain guardian of said infants, it is adjudged, ordered and decreed that J. C. Noel is appointed receiver of said fund and the said W. P. Zion is hereby directed to pay to the said J. C. Noel, receiver, the said fund, when the said J. C. Noel shall ^{have} executed bond with the Clerk of this Court in the penalty of one hundred and fifty dollars, for the faithful performance of the duties of said receiver. And this cause is continued.

A Copy Teste: H. C. T. Ewing Clerk.

M. P. Gion Edward

Decees

Juanita Fisher et al.

J. C. Noel,

Commissioner

Executed May 31st 1904.

C. M. Ball. S. & C.

Copy

Clerk

35¢

W. P. Zion, Guardian etc.

vs
Juanita Fisher, et al.

This Cause came on again to be heard upon the complainant's bill and the papers formerly read in this Cause and was argued by Counsel. And for reasons appearing to the Court, it is adjudged ordered and decreed that J. C. Noel, be appointed receiver to take charge of the money due the infant ~~his~~ defendants in this Cause, to wit: Juanita Fisher and Nels Fisher, from the sale of the real estate mentioned in said bill and ^{and any other money due them from said W. P. Zion} proceedings; And the said J. C. Noel, as such receiver, is hereby empowered and directed to receive from the said W. P. Zion all money now in his hands, or which shall hereafter come into his hands, belonging to said infants. But before entering upon said duties, as receiver, the said J. C. Noel, shall enter into a bond with good security, in the penalty of \$2000, conditioned upon the faithful discharge of his duties as said receiver. And this Cause is continued

W. P. Fair, Guardian
of Decree

Juanita Trasher et al
Cu. C. O. B. 7 p. 344-5
July 14, 1903

Enter this Decree.
This 14 day of July, 1903.
Hawes
Judge

W^m P. Zion, Guardian
vs
Juanita Fisher, et al } In Chancery.

This Cause came on this day to be heard upon the papers formerly read, the answer of the infant-defendants, by the guardian N. O. Ballou, and the depositions of witnesses.

And it appearing that the adult-defendant, J. W. Fisher, has been proceeded against according to law, against absent-defendants, and he appearing to neither answer or demur to the Complainant's bill, the same is taken for confessed as to him.

And the Court being of the opinion from the evidence that the interest of the infant-defendants will be promoted by a sale of their lands mentioned in the Complainant's bill, and the proceeds loaned out at interest.

It is therefore adjudged ordered and decreed that said lands be sold, and that W^m P. Zion who is hereby appointed a special Commissioner for the purpose, shall at his election make either, private or a public sale of said lands, as in his judgment

will be to the best interest of said defendants.
 Should he make a public sale of said
 lands, however, before making same, he
 shall advertise the said sale by posting
 notices, of the time, place and terms of
 sale, at the front door of the Court-house,
 at Pennington Gap, and in the neighbour-
 hood of where said lands are situated.
 said sale, shall be on a credit of one and
 two years time, ^{and shall not be for less than \$1000} except enough to pay the
 costs of said and commissions of sale,
 which shall be paid down; but the purchaser
 shall have the right to pay all the purchase
 money down and stop the interest thereon. Said
 Commissioner shall require of purchasers, for deferred
 payments, ^{payable to himself} bonds with good surety, if sold on time.
 before ~~entering~~ ^{performing} on the duties of said Commissioner, the
 said Wm. P. Zion shall give bond in penalty of
 \$300⁰⁰, for the faithful performance of his duties
 as said Commissioner, and shall report his
 action, to some future term of this Court until which
 time this cause is continued.

Wm. P. Zion, Guardian

vs

Decree

Granville Fisher,

Entered this 10 day
of March, 1903

H. C. W. S. Clerk
Cent. Co. B. 7 P. 272

W. P. Zion, Guardian, etc.

vs

Juannita Fisher et al

} In Chancery.

This Cause came on this day to be heard upon the plaintiffs bill, and exhibits filed therewith, and the answer of the infants, Juannita Fisher and Holste Fisher, by their Guardian ad litem W. P. Ballou, who was appointed by the Court to answer for them in this Cause, which answer was properly sworn to, and permitted to be filed in open Court; and was argued by Counsel, and it appearing that said plaintiff had proceeded according to law, by proper order of publication against the defendants, who are non residents of this state, and it appearing to the Court that the adult defendant J. W. Fisher, has not appeared to either answer or ^{answer to said} ~~deny~~ said bill, the same is taken for confessed as to him. And for reasons appearing to the Court, it is adjudged, ordered and decreed that the interests of the said infant defendants will be promoted by sale of their interests in the lands in controversy, and the proceeds thereof invested as directed by statute. It is therefore,

adjudged, ordered and decreed, that the interests of the said infant defendants in the several tracts of land in the Complainant's bill be sold, ~~at public outcry at the~~ and that J. B. Noel, who is hereby appointed a special commissioner for the purpose, ~~will proceed~~ after giving the time, terms and place of sale, by posting notices thereof, ~~will at three~~ or more public places in said county, one of which notices shall be posted at the front door of the Court house of said county, for at least 30 days next preceding said sale, shall proceed to sell the said several tracts of land, and the interests of said infants therein, at public outcry, upon a credit of ~~6~~, 12 & 18 months, except the costs and commissions of sale which shall be paid down; the ^{a purchaser} purchaser, executing his ~~own~~ their bonds with approved security, payable to said commissioner, but said purchasers may have the right to pay all the purchase money down to said commissioner. But before the said commissioner shall proceed to sell said lands, he shall execute with the clerk of this Court ~~and~~ with approved security in a

penalty of \$200⁰⁰, conditioned to
faithfully perform the duties of said
Commission, and said Commissioner
shall ~~execute~~ report his action to
some future term of this Court; until
which this cause is continued.

Wm P. Zion, Guardian
vs { Deere
Juannita Fisher et al

Entered this 15th
day of July 1902

Judge

The depositions L.M.Zion, taken before me *W. J. Orr*, a Justice of the Peace for the county of Lee, at the law-office of J.C.Noel, in the town of Pennington Gap, in said county of Lee on the 26th day of February, 1903, by agreement of the parties by council and the Guardian ad litem of the infant defendants, to be read in evidence in behalf of the plaintiff in a certain chancery cause now depending in the Circuit ~~and~~ Court for Lee county, in which Wm.P.Zion is plaintiff and Juanita Fisher et al are defendants.

Present--J.C.Noel, Counsel for Plaintiff,

H.O.Ballou, guardian ad litem for the infant defendant L.M.Zion a witness of lawful age being duly sworn deposes and says:

Ques. (1)--State your age, residence and occupation?

Ans.--Am 55 years old, reside at Pennington Gap, and am a farmer.

Ques. (2)--Are you acquainted with the lands assigned to the heirs of Harvey Zion in the partition of the lands of A.D.Zion, that is the land controversy in this suit?

Ans.--Yes sir:

Q. (3)--In your Judgment would the interests of the infants defendants the Children of Hattie Fisher be promoted by a sale of their interest in said ^{land} and the money put out at interest?

Ans.--I do. All the interests of Harvey Zions heirs in said lands have been sold, except the interest of the Fisher heirs,--that is ~~in~~ ⁱⁿ ~~the~~ ^{the} except their remainder interest in the dower of Anna Zion, widow of A.D.Zion. None of the four tracts of land assigned to said heirs can be rented for any price, except their interest in lot No. 9 in the partition of said A.D.Zions land, the residue except the dower interest above named, being wild mountain land.

Q. (4)--What do you consider a fair value of the interest of the Fisher heirs in said lands?

Ans.--From \$160.00 to \$110.00.

Q. (5)--Have you any interest in said lands?

Ans.--None at all.

And further this deponent sayeth not.

L. M. Zion

Virginia, Lee County, to-wit:

J. W. J. Orr, a Justice of the Peace in and for the county and state aforesaid, do hereby certify that the foregoing depositions of L.M.Zion were duly taken, sworn to and subscribed before me at

the place mentioned therein and in the caption therto, and for the purpose therein mentioned. Given under my hand this the 26th day of February, 1903.

W. L. Orr J.P.

Wm P. Zion Guardian
vs J. C. Luncy.

Juanita Fisher et al.

Depositions

Received by mail in
good condition and filed
Feb 28th 1903.

A. B. Munsey Clerk

Crois

Justice 7525

L. M. Zion 5000
\$ 1,25

CERTIFICATE.

I hereby certify that the within
Legal notice was published four
consecutive weeks in the PENNING-
TON GAP NEWS, a weekly News
paper published in this State, be-
ginniug Jan. 31st and ending
October the 1901.

February 21st 1902.

W. K. Hopkins, Clerk

In the Clerks Office of the Circuit Court of
the County of Lee on the 23rd day of Jan-
uary 1902.

Wm. p. Zion, Guardian, Pl. Intiff
against In Chancery.

Juanita Fisher, Holst Fisher, and J. W.
Fisher Defendants

The object of this suit is to obtain a de-
cree to set the interest of Juanita Fisher
and Holst Fisher (infants) and the four
tracts of land in the bill, and proceedings
mentioned, and to invest the proceeds as
the law directs in such cases made and
provided.

And an affidavit having been filed that
the defendants Juanita Fisher

Holst Fisher and J. W. Fisher
are not residents of the State Virginia, it
is ordered that they do appear here with-
in fifteen days after due publication here-
of, and do what may be necessary to pro-
tect their interest in this suit. And it is
further ordered that a copy be published
once a week for four weeks in the Pen-
nington Gap News and that a copy be post-
ed at the front door of the court house of
this County on the first day of the next
term of the County Court.

A c. py—Teste;

J. C. Noel p. q.

A. B. Munsey Clerk.

